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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/822,281	04/09/2004	Teresa Amorin	1219309-0005	2165
7470	7590	05/02/2007		
WHITE & CASE LLP PATENT DEPARTMENT 1155 AVENUE OF THE AMERICAS NEW YORK, NY 10036			EXAMINER PHILLIPS, CHARLES E	
			ART UNIT 3751	PAPER NUMBER
			MAIL DATE 05/02/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/822,281

Applicant(s)

AMORIN, TERESA

Examiner

Charles E. Phillips

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3751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 March 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 and 10-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 10-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-8 and 10-32 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In the base claims 1, 15 and 17, the phrase "at least one of the group consisting of" is confusing. What does group refer to and where is the support for this in the disclosure?

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(d) the invention was first patented or caused to be patented, or was the subject of an inventor's certificate, by the applicant or his legal representatives or assigns in a foreign country prior to the date of the application for patent in this country on an application for patent or inventor's certificate filed more than twelve months before the filing of the application in the United States.

Claims 1, 14 and 30 are rejected under 35 U.S.C. 102(b) as being anticipated by Graef et al (2003/0009141 A1).

See Fig. 20 where absorbent layer 10 is surrounded by transition layer 20 and a buffer layer 74 as well as liquid pervious layer 22 and liquid impervious layer 24.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3-5,10-13,15,17-20,22,24 ,28-29 and 31-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Grafe et al,as applied supra, in view of JP 2003334149.

JP teaches a layered absorbent mat which includes a wetness indicator as set forth in the abstract and it is shown used with a toilet bowl. The claim 5 indicia is seen at 3 in Fig. 3. Claim 20 is met by the mere change in a larger area as time of use increases. Claim 24 is met by the indicia 3 here. To provide these perfecting features in the environment of the former would have been obvious to the ordinary artisan as same is shown used in an identical art device. Alternatively, it would have been obvious to the ordinary artisan to have provided the latter with the transition and buffer layers of the former in order to glean the properties thereof, as same are taught in an identical art device.

Claims 6,23 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Grafe et al and JP, as applied supra, in view of WO 2005/016085.

To employ indicia in the nature of a foot, as shown at 50-56 in the latter, would have been obvious to the ordinary artisan as same is shown used in an identical art device.

Claims 7-8 and 26-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Grafe et al and JP, as applied supra, in view of Sanders.

Sanders teaches that foot prints of a luminous nature may be employed in a bath room environment. To employ this perfecting feature in the JP environment would have been obvious to the ordinary artisan as same is taught in a like environment. To provide for

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the luminous material to be phosphorescent would have been obvious to the ordinary as same is a well known material in the art of which official notice is taken.

Claims 2 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Grafe et al and JP, as applied supra, in view of Jp 2004016301 .

To employ the collar 3 of the latter in the environment of the former would have been obvious to the ordinary artisan as same is shown used in an identical art device.

Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Grafe et al and JP, as applied supra, in view of Olson et al.

See the olfactory indicator in paragraph 78, three lines from the end. To employ this perfecting feature in the former would have been obvious to the ordinary artisan as same is taught in a pad of absorbent material.

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Footnote is cited to show a layered sheet used in a toilet environment, see Figs 1-3. Note that the date for Figs 8-10 does not precede the filing date of the instant device.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles E. Phillips whose telephone number is 571-272-4893. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gre Huson, can be reached on 571-272-4887. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for

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published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).


Charles E. Phillips
Primary Examiner